

REMARKS

Claims 1-3 and 5-12 were examined. Claim 1 is amended and supported at least at paragraphs [0005]-[0006], [0033]-[0035] and Figures 1-3B. Claims 1-3 and 5-12 remain in the Application.

The Patent Office rejects claims 1-3, 6 and 8 under 35 U.S.C. §102(b) and claims 5, 7, 9 and 10-12 under 35 U.S.C. §103(a). Reconsideration of the pending claims is respectfully requested in view of the above amendment and the following remarks.

A. 35 U.S.C. §102(b): Rejection of Claims 1-3, 6 & 8

The Patent Office rejects claims 1-3, 6 and 8 under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 2,646,042 of Hu (Hu).

Claims 1-3, 6 and 8 describe a system for detecting tissue contact and penetration depth comprising a needle with a first opening to a lumen of the needle and a second opening to the same lumen of the needle, the needle having the lumen extending between the first opening and the second opening, and the second opening including at least one aperture in the needle to the lumen located at a predetermined distance from the first opening. The system also includes a fluid measurement assembly coupled with a portion of the needle to measure pressure of a fluid dispensed in the needle.

Claims 1-3, 6 and 8 are not anticipated by Hu, because Hu does not describe a needle having a lumen extending between a first and second opening and at least one aperture in the needle to the lumen. Rather, Hu describes opening 28 for channel 26 and opening 29 for channel 27 -- separate lumens (See col. 5, lines 19-23).

In addition, by having a first opening to a lumen and a second opening to the lumen of the needle, where the second opening includes at least one aperture to the lumen located at a predetermined distance from the first opening, embodiment described in the specification, for example, without limitation thereto, provide benefits of: (1) allowing it to be detected when the needle contacts a cavity or vessel wall, and (2) allowing it to be detected when the needle has been inserted a predetermined depth into the cavity or vessel wall, such as where the predetermined depth is the distance between the first hole and the second hole (see at least ¶¶

[0004]-[0006], [0030]-[0032] and [0035] of the Application; and Figures 1-3B). However, none of the references teach or enable such benefits.

Hence, Applicant respectfully requests that the Patent Office withdraw the rejection of claims 1-3, 6 and 8 under 35 U.S.C. §102(b).

B. 35 U.S.C. §103(a): Rejection of Claims 5, 7, 9 & 10

The Patent Office rejects claims 5, 7, 9 and 10 under 35 U.S.C. §103(a) as obvious over Hu. Claims 5, 7, 9 and 10 depend from claim 1 and therefore contain all the limitations of that claim. For at least the reasons stated above, claims 5, 7, 9 and 10 are not obvious over Hu. Hu does not teach or provide any motivation, suggestion or prediction for a needle with a first opening and a second opening and at least one aperture in the needle to the lumen extending between the openings. Applicant respectfully requests that the Patent Office withdraw the rejection to claims 5, 7, 9 and 10 under 35 U.S.C. §103(a).

C. 35 U.S.C. §103(a): Rejection of Claims 11 & 12

The Patent Office rejects claims 11 and 12 under 35 U.S.C. §103(a) as obvious over Hu in view of U.S. Patent No. 5,662,107 of Sakariassen (Sakariassen). Sakariasssen is cited for disclosing a computer processor coupled to a fluid pressure assembly.

Claims 11 and 12 depend from claim 1 and therefore contain all the limitations of that claim. For at least the reason stated above, claims 11 and 12 are not obvious over the cited references. Applicant respectfully requests that the Patent Office withdraw the rejection to claims 11 and 12 under 35 U.S.C. §103(a).

CONCLUSION

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record and are in condition for allowance and such action is earnestly solicited at the earliest possible date.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: 8/25/08

William V Babbitt
William Thomas Babbitt, Reg. No. 39,591

1279 Oakmead Parkway
Sunnyvale, California 94085-4040
Telephone (310) 207-3800
Facsimile (408) 720-8383

CERTIFICATE OF TRANSMISSION
I hereby certify that this correspondence is being submitted electronically
via EFS Web on the date shown below to the United States Patent and
Trademark Office.

Nedy Calleeron 8/25/08
Nedy Calleeron Date